

# **Indiana Department of Environmental Management**

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*(Text does not include verbatim comments)*

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## **Title of Breakouts:**

**Nurturing Community Sustainability - How do we contribute**

### **Session 3:**

**State's Role in Land Use Issues:**

**How State Programs & Policies are Coordinated  
To Protect Natural Resources**

### **Introduction**

- Thank you for invitation. State's Role in land use issues = Partnering and collaboration between agencies and with external people and groups
- Our land is a finite resource. So coming up with solutions to manage, conserve and wisely develop land is essential.
- IDEM has no direct regulatory role pertaining to land use; however, have some tools to help.
- IDEM authority: air, water and land pollution. Today's focus is on water and land issues within IDEM's province, and hopefully provide information and tools to take back to your communities when focusing on growth issues.

### **GROUNDWATER**

- 72 percent of Indiana residents rely on ground water as their primary source for drinking water.
- Once wells are contaminated, clean up is a long, difficult and expensive process.

### **Wellhead Protection as a Solution**

- All community water wells that serve over 25 people year round must have wellhead protection.
- Wellhead protection is a proactive way for communities to protect drinking water.
- Potential well contaminants can be anything that would compromise the aquifer - such as a wastewater treatment facility, a salt pile, a landfill, various industries which could cause pollutants to leech into the ground.
- Easements available for wellhead protection through NRCS.
- Required steps for Wellhead protection - **Phase I**

- 1) **Establish a local planning team** - Community systems are required to develop a planning team to guide all aspects of the wellhead protection program. This team must have representation from at least one party affected by the program (e.g., industry; agriculture; police; fire; city or county administration; etc.)
- 2) **Delineate wellhead protection area** - identify the well field management area and identify current threats of contamination, and protect against future threats
- 3) **Develop management plan for potential contaminant sources**
- 4) **Develop contingency plan in case of contamination**

## **Phase II**

- **Implement plan**
- Natural Resources professionals can get involved at the local level, either professionally or as a citizen; in either case you have unique expertise which you can bring to the process.

## **Ground Water Standards Rule as a Solution**

- Indiana's first ever ground water quality standards rule was adopted by the state's Water Pollution Control Board on August 8.
- The Rule establishes numeric and narrative ground water standards for all drinking water drawn from wells.
- The rule acts as a guide to help IDEM, DNR, the Department of Health, Office of State Chemist and Office of the State Fire Marshall in regulating activities that may affect the quality of ground water.
- With the new ground water rule, all ground water is classified as drinking water unless special classification is requested because of existing ground water contamination.
- These specific regulations will help us protect the future of Indiana's ground water.
- This rule provides a strong foundation for state agencies, industries and natural resource professionals to work from.
- Natural Resources Professionals can get involved with future rulemaking efforts by the various agencies which will be embarking on rulemaking pursuant to this the new groundwater rules.

## **SURFACE WATER**

- **Sediment Pollution - Rule 5 as a Solution**
- Rule 5 is one way our state's waterways are protected from erosion from construction sites. It is also another good example of partnering to protect natural resources. In this instance program is administered through IDEM, DNR and local SWCDs.
- This rule (327 IA 15-5) requires that all construction sites disturbing five acres or more of land:
  - 1) File notice of intent to IDEM (for a general permit)
  - 2) Submit an erosion control plan to either DNR or the local SWCD. These must be submitted before any dirt is moved.

- Typical erosion control measures are silt fences, sediment ponds, planting grass seed, and placing wheat or oats over the exposed soil.
- While obtaining the permit is the developer's responsibility, he or she must work with the builder to ensure enforcement.
- INDOT is one of biggest "developers" in the state - agencies work closely with INDOT to make sure water quality is protected.
- In December of 2002, this rule will be changed from five acres to one acre because of a federal rule passed in 1999.
- Obviously, this change from five to one acre will have a significant impact on all agencies that work together to protect our waters from soil erosion. As local natural resources professionals, you may be called on to assist. Even if you are not officially called upon, you can help by being our eyes and ears out in the field.

### **Wetlands as integral part of ecosystem and HERITAGE**

- Before Europeans began developing Indiana, 25% of our state's areas were wetlands, approximately 5.7M acres.
- As of the late 1980's, that number had been reduced to about 4%, just over 800,000 acres, largely due to development and agricultural practices.
- Importance of wetlands - flood control, critical fish and wildlife habitat, groundwater recharge, natural filtration of pollutants, unique and threatened vegetation.

### **Jurisdiction over Wetlands**

- Before January 2001, IDEM deferred to Corps jurisdiction over wetlands. If Corps determined 404 permit required per the Clean Water Act - IDEM was responsible for issuing 401 Water Quality certification, coordinated with DNR and USF&W on mitigation.
- **Rulemaking** - in process as a result, in part, at request of regulated community, to memorialize in rule what had become practices at IDEM re: wetlands.
- SWANCC - Solid Waste Agency of Northern Cook Co. vs. US Army Corps of Engineers - held that federal government has no jurisdiction over isolated wetlands.
- SWANCC court referenced the "States' traditional and primary power over land and water use." Congress chose to "recognize, preserve and protect the primary responsibilities and right of states...to plan the development and use...of land and water resources"
- **IDEM recognized the need to act quickly**
- IDEM notified interested parties that after extensive legal analysis, it was the agency's position that it had jurisdiction over isolated wetlands pursuant to state surface water quality standards.
- Issue of how to enforce protection of isolated wetlands was taken to the pre-existing wetlands rules workgroup.
- Oct. 1, 2001 - Second notice of wetland rules in Indiana Register, 30-day comment period - to Oct. 30.

- As a result of 3 meetings of workgroups, surface water modification permit program (SWAMPP), proposed in the second notice - permit for isolated wetlands (comparable to 401 certification process).
- IDEM has no intention of asserting any greater jurisdiction over isolated wetlands than what was previously asserted by the US Corps of Engineers.
- Workgroup will review public comments.
- Natural Resources Professionals can help to educate the public on the importance of wetlands to our ecosystem and the importance of the preservation of our remaining wetlands.

### **Land Preservation**

- Just as Indiana has lost wetlands at an alarming rate, Indiana loses more than 100,000 acres of undeveloped and agricultural land per year, according to the Indiana Office of the Commissioner Agriculture
- Because of convenience and, often, cost effectiveness, planners opt to build on green space rather than revitalize an old building or vacant industrial site.
- Caveat on cost effectiveness - not always as cost effective as may first appear when one starts to add in the cost of utility infrastructure, road improvements and availability of work force.

### **Brownfields Program as a Solution**

- To recycle land which has already been developed. A goal of this program is to discourage the use of green space.
- Brownfields are abandoned or under-used industrial and commercial sites where the reuse of the land is complicated or completely stalled by real or perceived environmental problems.
- Indiana's Brownfields Program was developed in 1997 to help communities revitalize these parcels of previously developed land into businesses as well as recreational facilities and parks.
- This program is a cooperative effort between IDEM, the Indiana Development Finance Authority and the Department of Commerce. Together, these agencies provide financial and technical support as well as community education and outreach.
- To date, IDEM, with the help of city officials and other stakeholders, is assisting or has assisted 175 Brownfields sites across the state return to productive use.
- Natural Resources Professionals can help at the local level by identifying and encouraging properties, which might be ripe for redevelopment.

### **Conclusion**

- Today I've talked about several ways you can help to protect natural resources and the environment in the face of development, which is inevitable, as well as imperative for the economic prosperity of Indiana.

- Take home message:

- Get informed
- Get involved
- Stay involved
- Share your expertise

THANK YOU.